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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P. (C) 1155/2018, CM APPL.4840-4841/2018

SAREGAMA INDIA LTD. THROUGH: MR. GB

AAYEER

..... Petitioner

Through: Mr. Rajiv Nayar, Sr. Advocate with Mr. Saikrishna Rajagopalan, Mr. Munish Mehra, Ms. Ridhima Sharma and Ms. Manjira, Advocates.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr. Sudhir Chandra Agarwal with Mr. Sagar Chandra, Ms. Surabhi Iyer, Ms. Aastha Bhasin and Mr. Shekhar Mennon, Advocates for R-4.

Mr. Kirtimaan Singh, CGSC for UOI with Mr. Waze Ali Noor, Mr. Prateek Dhada and Mr. Saeed Qadri, Advocates for 1 to 3.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

22.02.2018

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1. This writ petition is directed against the order dated 10.4.2017, passed by the respondent no.3. In addition thereto, challenge is also laid to public notice dated 24.1.2018, passed by the same respondent, i.e., respondent no.3.

2. To be noted insofar as the official respondents i.e., respondent no.1 to 3 are concerned, they had only filed a short note for the purpose of rendering assistance to this Court. Respondent no.4 which is the private respondent and the contesting party has filed the counter affidavit in the matter.

3. After some arguments, counsel for the parties, i.e., petitioner and respondent no.4 have agreed that the following directions can be passed in the matter: -

- i) The impugned order dated 10.4.2017 and the impugned public notice dated 24.1.2018 be set aside.
- ii) Respondent no.4 will approach the Appellate Board as envisaged under Section 31D of the Copy Right Act, 1957 (in short “the Act”). Respondent no.4, if it so desires, will make an appropriate application in terms of Section 31 D of the Act.
- iii) Any application moved by respondent no.4 as envisaged in paragraph 3(ii) above will not prevent the petitioner from raising objections *qua* the maintainability of the application including the objection concerning jurisdiction of the Appellate Board to decide the application.
- iv) The Appellate Board will adjudicate upon the application, if so filed, after giving due opportunity to contesting parties, within a reasonably quick time though not later than eight weeks from the date of completion of the pleadings.
- v) All rights and contentions of the parties shall remain open, which will be ruled upon by the Appellate Board, albeit, in accordance with law.

4. As indicated above, the writ petition is disposed of in terms of the aforesaid agreed directions.

5. At this stage, I am informed by Mr. Kirtimaan Singh, learned counsel for the official respondents/respondent no.1 to 3 that, presently, only the Chairperson, Appellate Board is in position. The

appointment of Technical Members, I am told, is underway. I am also informed that this aspect of the matter is pending consideration in W.P.(C)3671/2017.

6. The official respondents, having regard to the number of matters which are being filed in this Court, will expedite the appointment of the Technical Members.

7. Having regard to the aforesaid, the official respondents, i.e., respondent no.1 to 3 will file an Action Taken Report in W.P.(C)3671/2017.

8. Pending applications are also stand closed. No Costs.

RAJIV SHAKDHER, J

FEBRUARY 22, 2018

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